

The Director of Central Intelligence

Washington, D. C. 20505

9 March 1984

Dear Bill,

This is for your information pursuant to our recent telephone conversation.

Yours,

William J. Casey

The Honorable William French Smith
Attorney General
Department of Justice
Washington, D.C. 20530

WASHINGTON, D.C. 20505

Executive Registry

84-714/1

General Counsel

7 March 1984

NOTE FOR THE DIRECTOR

RE: Political Contributions

Bill:

I am sending you the attached memorandum addressed to all Department Heads from the Counsel to the President concerning political contributions. In my view, I believe the Counsel's analysis is all wrong. It is inconceivable to me that it would be illegal to make a contribution to an incumbent President in connection with a reelection campaign. If it did, it clearly would be inconsistent with an individual's First Amendment rights. What I am really concerned about is that we are advising our people that they may be violating the law by making such a contribution. As I understand it, this notice is unprecedented and I know of no other instance where a notice was sent out by any other Administration.

As
Stanley Sporkin

Attachment



THE WHITE HOUSE

WASHINGTON

February 14, 1984

MEMORANDUM FOR THE HEADS OF ALL DEPARTMENTS AND AGENCIES

FROM:

FRED F. FIELDING 
COUNSEL TO THE PRESIDENT

SUBJECT:

18 U.S.C. § 603

Section 603 of title 18 makes it a felony for any officer or employee of the United States to give a political contribution to any other officer or employee of the United States who is the "employer or employing authority" of the contributor. */ Although the issue is not free from doubt, this provision may prohibit any Federal employee from contributing to the authorized campaign committee of the President (Reagan-Bush '84).

Although such interpretation **/ would raise grave constitutional concerns, prudence requires that any ambiguity in the language of this statute be resolved against placing any Presidential appointee or other Federal employee in the position of inadvertently violating Federal law. Hence, in the absence of any judicial interpretation of this provision or any legislative clarification of it, all Federal employees should be advised that this statute may preclude them from contributing to Reagan-Bush '84, the authorized campaign committee of the President.

I regret that such advice may inhibit Federal employees from the full exercise of their First Amendment rights; nevertheless, in the interest of maintaining strict compliance with all⁰ Federal statutes, every Federal employee should be made aware of the language and potential restrictions of this statutory provision.

Your cooperation in disseminating this advice will be greatly appreciated.

*/ The terms "contribution" and "authorized committee" are used as they are defined in the Federal Election Campaign Act of 1971, as amended, 2 U.S.C. §§ 431(8) and 432(e)(1).

**/ This interpretation would be personal to the employee only, and would not apply to his or her spouse or family, and would be applicable only to contributions to Reagan-Bush '84.

ARTICLE APPEARED
ON PAGE 6-2

6 March 1984

MIKE CAUSEY

THE FEDERAL DIARY

U.S. Workers Told Not to Donate to Reagan

In an unprecedented action, federal civil servants and political appointees have been warned not to give any money to the Reagan-Bush reelection campaign, from no less an authority than the White House itself.

Most of the government's 2.8 million workers, all but top political appointees, are covered by the Hatch Act, which limits their political rights. Since the act was passed 45 years ago, no presidential candidate has expressly told federal employees not to make campaign contributions.

The 1939 law permits federal and District employees to register, vote and express political opinions privately. It also permits them to give money to candidates, provided they do it voluntarily, and off duty.

The law limits the role that federal workers may take in partisan campaigns. It also calls for criminal penalties for bosses who attempt to force civil service employees to give money for political causes, or to contribute time to a political campaign.

After a legal battle within the administration, the White House last month decided that to be on the safe side, it would advise all U.S. workers not to give money to the Reagan campaign because, technically, they all work for the president.

The memo to agency heads, from Fred F. Fielding, counsel to the president, does not say anything about workers giving money to Democratic candidates, nor does it bar the spouses of workers or political appointees from giving money to the Reagan campaign.

Fielding's memo notes that federal law makes it illegal for government employees to give money to "any other officer or employee of the U.S. who is the 'employer or employing authority' of the contributor. Although this issue is not free from doubt, this provision may prohibit

any federal employee from contributing" to the Reagan-Bush campaign. The memo does not say what would happen, if anything, to an employee who makes a contribution.

Fielding said "prudence requires that any ambiguity in the language of this statute be resolved against placing any presidential appointee or other federal employee in the position of inadvertently violating federal law. Hence, in the absence of any judicial interpretation of this provision . . . all federal employees should be advised that this statute may preclude them from contributing to Reagan-Bush '84, the authorized campaign committee of the president. I regret that such advice may inhibit federal employees from the full exercise of their first amendment rights; nevertheless, in the interest of maintaining strict compliance with all federal statutes, every federal employee should be made aware of the language and the potential restrictions of this statutory provision."

Gary Who? Colorado Democratic Sen. Gary Hart's strong showing in New Hampshire and Maine has prompted some federal workers to ask about his record on civil service matters. The answer is that his record is very good.

All federal and postal unions under the AFL-CIO banner have endorsed Walter Mondale for the Democratic nomination. So has the independent National Treasury Employees Union.

One independent, the National Federation of Federal Employees, says Hart had a "perfect" voting record on the 15 key federal-postal worker issues in the last two Congresses. Those votes ranged from federal pay raises to the extension of social security to new federal workers, which Hart opposed.

NFFE right now is polling its members to see if they want the union to endorse a candidate, and if so, which one. More than 200 of the union's members are in town this week to lobby on Capitol Hill. They also plan to picket the White House, to protest proposed changes in the federal retirement system and the administration's stepped up use of contracts for federal jobs.

Sen. Jeff Bingaman (D-N.M.) will speak at an NFFE delegates breakfast this morning at the Hyatt Regency Hotel. Rep. Steny Hoyer (D-Md.) will speak at a union banquet this evening in the Cannon House Caucus Room.

If He Wins, She Loses! Rep. Patricia Schroeder (D-Colo.), a friend of federal workers, is often mentioned as a possible Democratic vice presidential nominee. Schroeder is a staunch backer of Hart. The irony is that if Hart gets the nomination, Schroeder would probably be taken off the list, since politicians favor geographically balanced tickets.